

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WILLIAM BRANCH

)

CIVIL ACTION NO: 1:00-CV-1728

vs

)

RUSSIAN, ET.AL

)

JUDGE CONNER

FILED
HARRISBURG, PA

MOTION FOR RECONSIDERATION
OF SUMMARY JUDGEMENT

FEB 17/ 2005

MARY E. D'ANDREA, CLERK
Per _____
Deputy Clerk

If it pleases the most noble Court, here comes William Branch, CF-3756, asking this tribune to reconsider the granting of summary judgement, per Local Rules of the Middle District 7.10, and a brief to be filed in 30 days. I pray this correct. If not, please inform me of the proper requirements and I will file the Brief as soon as possible.

Having read your Honor's Order, it would appear that it fails to recognize that "[g]overnment actions, which standing alone do not violate the Constitution, may nonetheless be constitutional torts if motivated in substantial part by a desire to punish an individual for exercising of a constitutional right." See Mitchell v. Horn, 318 F.3d 523 at 530 [10, 11](3rd Circuit 2003).

Furthermore, an allegation of falsely being charged with misconducts in retaliation for filing complaints against a corrections officer implicates conduct protected by the First Amendment, and that being placed in the Restrictive Housing Unit (RHU) for disciplinary confinement purposes is an adverse action by prison officials "sufficient to deter a person of ordinary firmness from exercising his [constitutional] right." Id.

The Court also ruled "that several months in disciplinary confinement would deter a reasonably firm prisoner from exercising his First Amendment rights. [And the Court agrees] with Mitchell that the word 'retaliation' in his complaint sufficiently implies causal links between [Mitchell's] complaints and the misconduct charges filed against him." Id at [12].

In light of Mitchell, I respectfully ask this Most Noble Court to reverse the granting of summary judgement, Brief to follow clarifying all points in the Court's Memorandum.

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RUSSIAN, ET.AL) JUDGE CONNER

PROOF OF SERVICE

S.D.A.G., Ms Mosely, Esquire, 15th Floor, Strawberry Square, Harrisburg,
PA 17120

Judge Conner, P.O. Box 847, Harrisburg, PA 17108

UNSWORN DECLARATION

I affirm under penalty of the law the above is true.

February 19, 2005
^{wb}

Date executed:

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